

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

**LYNELL OSBORN,**

**Plaintiff,**

**vs.**

**Case No. 1:20-cv-002 SMV**

**ANDREW SAUL,  
Commissioner of Social Security,**

**Defendant.**

**ORDER AWARDING ATTORNEY FEES PURSUANT TO  
THE EQUAL ACCESS TO JUSTICE ACT, 28 U.S.C. § 2412(d)**

THIS MATTER is before the Court on the Stipulated Motion Regarding Award of Attorney Fees under the Equal Access to Justice Act, (Doc.29), filed November 6, 2020, in which the parties stipulate to awarding Plaintiff EAJA fees in the amount of \$6,042.50.

IT IS THEREFORE ORDERED that Plaintiff be awarded \$6,042.50 in attorney fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d). See *Astrue v. Ratliff*, 560 U.S. 586, 591–93 (2010) (providing EAJA fees are paid to the prevailing party, not the attorney).

IT IS FURTHER ORDERED that if Plaintiff's counsel receives attorney fees under both the EAJA and 42 U.S.C. § 406(b), Section 206(b) of the Social Security Act, Plaintiff's counsel shall refund the smaller award to Plaintiff pursuant to *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).

**IT IS SO ORDERED.**



---

**STEPHAN M. VIDMAR  
United States Magistrate Judge**

**Submitted by:**

s/ Francesca J. MacDowell  
Francesca J. MacDowell  
Attorney for Plaintiff

**Approved by email on  
November 6, 2020 by:**

M. Thayne Warner, Special AUSA  
Attorney for Commissioner